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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Applications of:

FRANK B. DUROSS

KENNETH F. ROSER, JR.

For Construction Permit  
For a New FM Station on Channel 250A  
in Whitesboro, New York

)  
)  
) FCC File No. BPH-920512MC  
)  
) FCC File No. BPH-920513MI  
)  
) MM Docket No. 93-264  
)  
)

TO: The Honorable Joseph P. Gonzales  
Administrative Law Judge

**JOINT PETITION**  
**FOR APPROVAL OF SETTLEMENT AGREEMENT,**  
**LEAVE TO FILE AMENDMENT**  
**AND**  
**WITHDRAWAL OF APPLICATION**

Kenneth F. Roser, Jr. and Frank B. DuRoss ("Petitioners"), applicants in the above captioned proceeding,<sup>1</sup> by their attorneys and pursuant to Sections 73.3522(b) and 73.3525

<sup>1</sup> Originally, there were five applicants for the Whitesboro, New York FM facility. The application of William H. Walker III (BPH-920513ME) was dismissed for failure to submit the required Hearing Fee. The application of New Horizons Broadcasting Partnership (BPH-920513MF) was voluntarily dismissed by the applicant. The application of Kevin O'Kane (BPH-920514MK) was dismissed pursuant to a settlement agreement. Roser and DuRoss are the sole remaining applicants in this proceeding.

of the Commission's Rules, hereby request that the Presiding Judge approve an agreement which would result in the application of Kenneth F. Roser, Jr. being amended to reflect a merger of interests with Frank B. DuRoss. Mr. Roser would continue to prosecute his application using the same file number (BPH-920513MI). Petitioners also request that the application of Frank B. DuRoss be dismissed, contingent upon approval of this "Joint Petition for Approval of Settlement Agreement." In support whereof, Petitioners state as follows:

### **I. FACTUAL BACKGROUND**

1.) Petitioners are applicants for a construction permit for a new FM station on channel 250A in Whitesboro, New York and have agreed to merge their interests. It is agreed that the application of Kenneth F. Roser, Jr. would be amended to reflect a new entity: Professional Broadcasting Corporation. Such a merger has been negotiated and agreed-upon, conditioned upon the Presiding Officer's approval of this request and its accompanying documents, as well as amendment to Roser's application.<sup>2</sup> The amendment to Roser's application also includes a technical amendment which was prepared as a result of

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<sup>2</sup> The accompanying documents include the following: (1) Section 1.65 Amendment to Roser's application including copies of the Articles of Incorporation, By-Laws and the Minutes of the First Organizational Meeting (Exhibit One); (2) Declarations of Kenneth F. Roser, Jr. and Frank B. DuRoss (Exhibit Two); (3) The Memorandum of Understanding between Roser and DuRoss (Exhibit Three).

the negotiations between the parties. The parties agree that Roser's transmitter site shall be used as the site of the new FM facility but have agreed to amend the Height above average terrain ("HAAT") of the antenna.

2.) The terms of the agreement between Roser and DuRoss are set forth in the "Memorandum of Understanding" (Exhibit Three) as well as in the "Articles of Incorporation", the "By-Laws" and the "Minutes of the First Organizational Meeting of Professional Broadcasting Corporation" (Exhibit One).

3.) Pursuant to the Agreement, Petitioners are jointly seeking leave to amend the application of Kenneth F. Roser, Jr. and to request the withdrawal of the application of Frank B. DuRoss. The Petitioners also seek to carry-over the file number of Roser's file number to the new, merged entity contingent upon the approval of their agreement and the attached, accompanying documentation.

4.) As set forth in the agreement, Professional Broadcasting Corporation will be composed of Kenneth F. Roser, Jr. and Frank B. DuRoss. The corporation will be authorized to issue 200 shares of voting, common stock. Each will own 50 shares, representing fifty votes each for a total equity share of 50%. This arrangement will result in

each party having "negative control" of the affairs of the corporation. Both of the owners of Professional Broadcasting Corporation were applicants in this proceeding.

5.) It is noted that the Presiding Officer has not yet ruled on the "Motion to Enlarge Issues" filed against Kenneth F. Roser's application by Frank B. DuRoss. The Petitioner's requests for "Approval of this Settlement Agreement," the "Petition for leave to file an Amendment" to Roser's application, and the "Request for Withdrawal" of the DuRoss application is contingent upon the Presiding Officer's denial of that "Motion to Enlarge Issues".

## **II. PUBLIC INTEREST**

6.) Section 311(c)(3) of the Communications Act of 1934, as amended, {47 USC Section 311(c)(3)}, provides, in pertinent part, that the Commission has the authority to approve prospective merger or settlement agreements "only if it determines that the agreement is consistent with the public interest, convenience or necessity." In making this determination, the Commission has often expressed its policy that merger and settlement of pending litigation is, in and of itself, in the public interest. As noted in Anax Broadcasting,

Inc., 99 FCC 2d 607, 50 RR 2d 798; 801 (1981), "Commission practice strongly encourages settlement". Cf. RKO General (WNAC-TV), 89 FCC 2d 297, 312; 50 RR 2d 1597, 1611 (1982).

7.) In addition to the Commission's general policy favoring settlement, the proposed Agreement between the Petitioners advances substantial public interests. Most obviously, the approval of the Agreement conserves Commission resources, ends the pending litigation and results in the initiation of a new FM service more quickly.

**III. POST DESIGNATION MERGERS BETWEEN COMPETING APPLICANTS**  
**ARE NOT SUBJECT TO MAJOR CHANGE PROVISIONS OF THE**  
**COMMISSIONS RULES**

8.) A merger agreement following the designation of a case for hearing is governed by Section 73.3522 of the Commission's Rules {47 CFR 73.3522(b)}. That section requires parties seeking to amend their application more than thirty days after designation to make a "good cause" showing. The Commission has long held that a merger of competing applicants is not a "major change" requiring the assignment of a new file number and the return of the application to the processing line. (Moreover, the change being proposed to Roser's application would not require the assignment of a new file number even

if it was not the result of a proposed settlement.) Parties to a proposed merged applicant must satisfy only the Commission's traditional "good cause" criteria under Section 73.3522. See e.g., RKO General, Inc. (WNAC-TV), 89 FCC 2d, 297; 50 RR 2d 1597 (1982); Great River Broadcasting, Inc., 13 FCC 2d 828; 12 RR 2d 741 (1972); New Broadcasting Corp., 28 RR 2d 1715 (Rev. Bd. 1973)

#### **IV. GOOD CAUSE EXISTS FOR THE ACCEPTANCE OF THE PROPOSED AMENDMENT**

9.) Commission case law has established the following traditional test for establishing "good cause" for the filing of a post-designation amendment: (1) the applicant acted with due diligence; (2) where the proposed amendment was voluntary, acceptance of the amendment would achieve clear public interest benefits; (3) no modification or addition of issues or parties would be necessitated due to the amendment; (4) the proposed amendment would not disrupt the orderly conduct of processing or hearing procedures; (5) no other party would be unfairly prejudiced and the applicant would not gain a comparative advantage. See e.g., Simon Geller, 90 FCC 2d 250; 51 RR 2d 1019, 1027 (1982); Radio Wheeling, 87 FCC 2d 523, 49 RR 2d 1603, 1604, n.5 (1981); Erwin O'Connor Broadcasting Company, 22 FCC 2d 140, 18 RR 2d 820, 824 (Rev. Bd. 1970). Petitioner's agreement clearly meets these traditional criteria and serves the public interest, convenience and necessity in the simplification of the proceedings. The proffered amendment is examined below under each of the Commission's traditional "good cause" criteria.

## V. SUMMARY

10.) In summary, the proposed merger of Petitioners into Professional Broadcasting Corporation serves a substantial public interest in terminating this proceeding. Moreover, the Amendment proposed by the petitioners is supported by "Good Cause."

**Wherefore,** the foregoing premises considered, Kenneth F. Roser, Jr. and Frank B. DuRoss respectfully request that this Joint Petition for Approval of Settlement Agreement, Leave to File Contingent Amendment and Dismissal of Application be granted.

Respectfully submitted,

By:



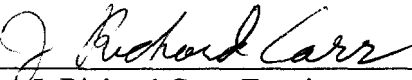
Richard J. Hayes, Jr., Esquire

13809 Black Meadow Road

Spotsylvania, VA 22553

Counsel to: Kenneth F. Roser, Jr.

By:



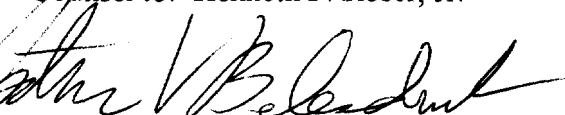
J. Richard Carr, Esquire

P.O. Box 70725

Chevy Chase, MD 20813

Counsel to: Kenneth F. Roser, Jr.

By:



Arthur V. Belendiuk

Smithwick & Belendiuk, P.C.

1990 M Street, N.W., Suite 810

Washington, D.C. 20036

Counsel to: Frank B. DuRoss

**PROFESSIONAL BROADCASTING CORPORATION**

**EXHIBIT ONE**

**TO**

**JOINT PETITION FOR APPROVAL OF SETTLEMENT AGREEMENT  
LEAVE TO FILE AMENDMENT  
AND  
WITHDRAWAL OF APPLICATION**



## **CONTENTS OF EXHIBIT ONE**

- A) Section 1.65 Amendment to the FM Broadcast  
Station Construction Permit Application of  
Kenneth F. Roser, Jr. (Includes: FCC Form 301  
And Related Engineering Materials and Exhibits)**
  
- B) Corporate Documents of Professional  
Broadcasting Corporation (Includes: Articles  
of Incorporation, By-Laws And Minutes of  
First Organizational Meeting)**

**PROFESSIONAL BROADCASTING CORPORATION**

**EXHIBIT ONE**

**A) SECTION 1.65 AMENDMENT TO APPLICATION OF  
KENNETH F. ROSER, JR.**

- 1) FCC FORM 301**
- 2) RELATED ENGINEERING EXHIBIT**
- 3) LEGAL EXHIBITS**

## AMENDMENT

Pursuant to Section 1.65 (47 CFR 1.65) of the Commission's Rules and Regulations, I hereby amend my application (FCC File No. BPH-920513MI) to reflect the merger of interests of Kenneth F. Roser, Jr. and Frank B. DuRoss.<sup>1</sup> It is requested that the File Number (BPH-920513MI) be carried forward and applied to this Amendment.

This Amendment specifies the following:

- 1) A merger of interests between the sole competing applicants, Kenneth F. Roser, Jr. (FCC File No. BPH-920513MI) and Frank B. DuRoss (FCC File No. BPH-920512MC).
- 2) Specification of a new entity, Professional Broadcasting Corporation, as substitution for Kenneth F. Roser, Jr.
- 3) Mr. Roser and Mr. DuRoss will each own 50% of the new entity.
- 4) Each owner will pay all of his own legal and engineering expenses associated with their individual applications and will contribute the necessary funds, on an equal basis, to construct and operate the Whitesboro facility.

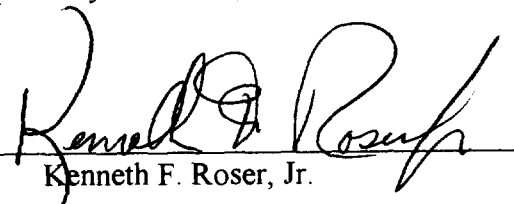
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<sup>1</sup> This Amendment is offered with the contingency that the pending "Motion to Enlarge" filed by Frank B. DuRoss against Kenneth F. Roser, Jr. is denied, and that the "Joint Request for Approval of Settlement Agreement," "Leave to File Amendment" and "Withdrawal of the Application of Frank B. DuRoss" are granted.

- 5) A new Technical Proposal is included which utilizes the same transmitter location specified in Mr. Roser's application. This new Technical Proposal requests Commission approval to increase the height above average terrain (HAAT) from that specified in Mr. Roser's original application (BPH-920513MI).

Respectfully submitted,

By:

  
Kenneth F. Roser, Jr.

Dated: 2/3/94

Approved by OMB  
3060-0027  
Expires 6/30/95

FCC 301

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20544

FOR  
FCC  
USE  
ONLY

APPLICATION FOR CONSTRUCTION PERMIT  
FOR COMMERCIAL BROADCAST STATION

FOR COMMISSION USE ONLY

FILE NO.

Section 1 - GENERAL INFORMATION

1. APPLICANT NAME

KENNETH F. ROSER, JR.

MAILING ADDRESS (Line 1) (Maximum 35 characters)

5819 GRAHAM ROAD

MAILING ADDRESS (Line 2) (If required) (Maximum 35 characters)

CITY

UTICA

STATE OR COUNTRY (If foreign address)

NEW YORK

ZIP CODE

13502

TELEPHONE NUMBER (Include area code)

315-797-8236

CALL LETTERS

NEW FM

OTHER FCC IDENTIFIER (IF APPLICABLE)

BPH-920513MI

FOR MAILING THIS APPLICATION, SEE INSTRUCTIONS FOR SECTION 1 - GENERAL INFORMATION B.

2. A. Is a fee submitted with this application?

☐ Yes ☐ No

B. If No, indicate reason for fee exemption (see 47 C.F.R. Section 1.1112) and go to Question 3.

☐ Governmental Entity

☐ Noncommercial educational licensee

C. If Yes, provide the following information:

Enter in Column (A) the correct Fee Type Code for the service you are applying for. Fee Type Codes may be found in the "Mass Media Services Fee Filing Guide." Column (B) lists the Fee Multiple applicable for this application. Enter in Column (C) the result obtained from multiplying the value of the Fee Type Code in Column (A) by the number listed in Column (B).

	(A) FEE TYPE CODE	(B) FEE MULTIPLE (If required)	(C) FEE DUE FOR FEE TYPE CODE IN COLUMN (A)	FOR FCC USE ONLY
(1)		0 0 0 1	\$	

To be used only when you are requesting concurrent actions which result in a requirement to list more than one Fee Type Code.

	(A)	(B)	(C)	FOR FCC USE ONLY
(2)		0 0 0 1	\$	

ADD ALL AMOUNTS SHOWN IN COLUMN C, LINES (1) THROUGH (2), AND ENTER THE TOTAL HERE. THIS AMOUNT SHOULD EQUAL YOUR ENCLOSED REMITTANCE.

TOTAL AMOUNT REMITTED  
WITH THIS APPLICATION

\$

FOR FCC USE ONLY

3. This application is for: (check one box)

☐ AM

☒ FM

☐ TV

(b) Channel No. or Frequency

250-A

(b) Principal  
Community

City

WHITESBORO

State

NY

Section 1 - GENERAL INFORMATION (Page 2)

(c) Check one of the following boxes:

- ☐ Application for NEW station
- ☐ MAJOR change in licensed facilities; call sign: \_\_\_\_\_
- ☐ MINOR change in licensed facilities; call sign: \_\_\_\_\_
- ☐ MAJOR modification of construction permit; call sign: \_\_\_\_\_
- File No. of construction permit: \_\_\_\_\_
- ☐ MINOR modification of construction permit; call sign: \_\_\_\_\_
- File No. of construction permit: \_\_\_\_\_
- ☒ AMENDMENT to pending application; Application file number: BPH-920513MI

NOTE: It is not necessary to use this form to amend a previously filed application. Should you do so, however, please submit only Section 1 and those other portions of the form that contain the amended information.

4. Is this application mutually exclusive with a renewal application? ☐ Yes ☒ No

If Yes, state:

Call letters	Community of License	
	City	State
N/A	N/A	

**Section II - LEGAL QUALIFICATIONS**

Name of Applicant

**PROFESSIONAL BROADCASTING CORPORATION (KENNETH F. ROSER, JR.)**

1. Applicant is: *(check one box below)*

- ☐ Individual
 ☐ General partnership
 ☒ For-profit corporation  
☐ Other
 ☐ Limited partnership
 ☐ Not-for-profit corporation

2. If the applicant is an unincorporated association or a legal entity other than an individual, partnership, or corporation, describe in an Exhibit the nature of the application.

Exhibit No.  
**N/A**

NOTE: The terms "applicant," "parties to this application," and "non-party equity owners in the applicant" are defined in the instructions for Section II of this form. Complete information as to each "party to this application" and each "non-party equity owner in the applicant" is required. If the applicant considers that to furnish complete information would pose an unreasonable burden, it may request that the Commission waive the strict terms of this requirement with appropriate justification.

3. If the applicant is not an individual, provide the date and place of filing of the applicant's enabling charter (e.g., a limited partnership must identify its certificate of limited partnership and a corporation must identify its articles of incorporation by date and place of filing):

Date JANUARY 4, 1994 Place ALBANY, NY

In the event there is no requirement that the enabling charter be filed with the state, the applicant shall include the enabling charter in the applicant's public inspection file. If, in the case of a partnership, the enabling charter does not include the partnership agreement itself, the applicant shall include a copy of the agreement in the applicant's public inspection file.

4. Are there any documents, instruments, contracts or understandings (written or oral), other than instruments identified in response to Question 3 above, relating to future ownership interests in the applicant, including but not limited to, insulated limited partnership shares, nonvoting stock interests, beneficial stock ownership interests, options, rights of first refusal, or debentures?

☐ Yes ☒ No

If Yes, submit as an Exhibit all such written documents, instruments, contracts, or understandings, and provide the particulars of any oral agreement.

Exhibit No.  
**N/A**

5. Complete, if applicable, the following certifications:

(a) Applicant certifies that no limited partner will be involved in any material respect in the management or operation of the proposed station.

☒ Yes ☐ No

If No, applicant must complete Question 6 below with respect to all limited partners actively involved in the media activities of the partnership.

(b) Does any investment company (as defined in 15 U.S.C. Section 80 a-31), insurance company, or trust department of any bank have an aggregated holding of greater than 5% but less than 10% of the outstanding votes of the applicant?

☐ Yes ☒ No

If Yes, applicant certifies that the entity holding such interest exercises no influence or control over the applicant, directly or indirectly, and has no representatives among the officers and directors of the applicant.

☐ Yes ☐ No  
**N/A**

# Section II - LEGAL QUALIFICATIONS (Page 2)

6. List the applicant, parties to the application and non-party equity owners in the applicant. Use one column for each individual or entity. Attach additional pages if necessary.

(Read carefully - The numbered items below refer to line numbers in the following table.)

a. Name and residence of the applicant and, if applicable, its officers, directors, stockholders, or partners (if other than individual also show name, address and citizenship of natural person authorized to vote the stock). List the applicant first, officers next, then directors and, thereafter, remaining stockholders and partners.

b. Citizenship.

c. Office or directorship held.

d. Number of shares or nature of partnership interests.

e. Number of votes.

f. Percentage of votes.

NOTE: Radio Applicants ONLY: Radio applicants need not respond to subparts g and h of the table. Instead, proceed and respond to Questions 7, 8 and 9, Section II below.

g. Other existing attributable interests in any broadcast station, including the nature and size of such interests.

h. All other ownership interests of 5% or more (whether or not attributable), as well as any corporate officership or directorship, in broadcast, cable, or newspaper entities in the same market or with overlapping signals in the same broadcast service, as described in 47 C.F.R. Section 73.3555 and 73.501, including the nature and size of such interests and the positions held.

a.	Professional Broadcasting Corporation 5819 Graham Rd. Utica, NY 13502	Frank B. DuRoss 22 Stonebridge Rd. New Hartford, NY 13413	Kenneth F. Roser, Jr. 5819 Graham Rd. Utica, NY 13502
b.	U.S.A. (Albany, NY)	U.S.A.	U.S.A.
c.	N/A	Director/Vice President Treasurer	Director/President Secretary
d.	N/A	50 Shares	50 Shares
e.	N/A	50 Votes	50 Votes
f.	N/A	50%	50%
g.	NONE	Please See Exhibit No. 1	Please See Exhibit No. 1
h.	NONE	Please See Exhibit No. A	Please See Exhibit No. A



Section II - LEGAL QUALIFICATIONS (Page 3)

RADIO APPLICANTS ONLY NEED TO RESPOND TO QUESTIONS 7, 8 AND 9.

7. Does the applicant, or any party to the application, own, or have an attributable interest in: (a) any AM, FM or TV station; or (b) a daily newspaper in the same market(s) as the station(s) being proposed?

☐ Yes ☒ No

8. Does the applicant, or any party to the application, broker more than 15 percent of the broadcast hours per week of any AM or FM station in a market in which the applicant, or party to the application, has an attributable interest in any AM or FM station? See 47 C.F.R. Section 73.3555(a) for definition of "radio market."

☐ Yes ☒ No

If the answer to 7 or 8 is Yes, set forth in an Exhibit, name of party having interest; nature of the interest; call letters and location of stations involved; and identification of newspaper, where applicable.

Exhibit No.  
N/A

9. Does the principal community service contour (predicted or measured 5 mV/m groundwave contour for AM; predicted 3.16 mV/m contour for FM) of any AM or FM station being proposed overlap the principal community service contour of:

(a) an AM or FM station which is directly or indirectly owned, operated or controlled by the applicant or any party to the application; or

☐ Yes ☒ No

(b) an AM or FM station at which more than 15 percent of the broadcast time per week is brokered by the applicant or any party to the application?

☐ Yes ☒ No

If the answer to (a) or (b) is Yes, do you certify that the ownership interests which will result from grant of the application(s) comply with 47 C.F.R. Section 73.3555(a), or that appropriate waivers of that section are herein sought?

☐ Yes ☒ No

If Yes, attach a separate Exhibit containing the market and audience information necessary to demonstrate compliance.

Exhibit No.  
N/A

Note: With reference to the Radio Contour Overlap Rule of 47 C.F.R. Section 73.3555(a), the applicant's Exhibit must include: (i) a map that clearly identifies, by relevant contours, the location and geographic coverage of the market or markets involved; (ii) the number of commercial AM and FM stations counted as being in the market or markets, including a map that shows the principal community contours of the stations that define the market or markets and the principal community contours of all commercial stations intersecting with the principal community contours of these stations; (iii) for markets with 15 or more commercial radio stations, a combined audience share figure, the basis and/or source material for this figure, and the results and qualification of any commissioned audience survey or alternative showing used; and (iv) the call letters and locations of all stations in the market or markets that are, or are proposed to be, commonly owned, operated or controlled, including any AM or FM station in the market for which the applicant or any party to the application brokers more than 15 percent of that station's broadcast time per week.

Section II - LEGAL QUALIFICATIONS (Page 4)

10. Does the applicant, or any party to the application, have a petition to migrate to the expanded band (1605-1705 (kHz) or a permit or license either in the existing band or expanded band that is held in combination with the AM facility proposed to be modified herein?

☐ Yes ☒ No

If Yes, provide particulars as an Exhibit.

Exhibit No.  
N/A

11. Does the applicant, any party to the application or any non-party equity owner in the applicant have, or have they had, any interest in:

(a) a broadcast station, or pending broadcast station application before the Commission?

☒ Yes ☐ No

(b) a broadcast application which has been dismissed with prejudice by the Commission?

☐ Yes ☒ No

(c) a broadcast application which has been denied by the Commission?

☐ Yes ☒ No

(d) a broadcast station, the license of which has been revoked?

☐ Yes ☒ No

(e) a broadcast application in any pending or concluded Commission proceeding which left unresolved character issues against the applicant?

☐ Yes ☒ No

If the answer to any of the questions in (a)-(e) above is Yes, state in an Exhibit the following information:

Exhibit No.  
A

(1) Name of party having interest;

(2) Nature of interest or connection, giving dates;

(3) Call letters of stations or file number of application or docket; and

(4) Location.

12. (a) Are any of the parties to the application or non-party equity owners in the applicant related (as husband, wife, father, mother, brother, sister, son or daughter) to each other?

☐ Yes ☒ No

(b) Does any member of the immediate family (i.e. husband, wife, father, mother, brother, sister, son or daughter) of any party to the application or non-party equity owner in the applicant have any interest in or connection with any other broadcast station, pending broadcast application or newspaper in the same area (see Section 73.3555(c)) or, in the case of a television station applicant only, a cable television system in the same area (see Section 76.501(a))?

☐ Yes ☒ No

If the answer to (a) or (b) above is Yes, attach an Exhibit giving full disclosure concerning the persons involved, their relationship, the nature and extent of such interest or connection, the file number of such application, and the location of such station or proposed station.

Exhibit No.  
N/A

13. State in an Exhibit any interest the applicant or any party to this application proposes to divest in the event of a grant of this application.

Exhibit No.  
B

OTHER MASS MEDIA INTERESTS

14. (a) Do individuals or entities holding nonattributable interests of 5% or more in the applicant have an attributable ownership interest or corporate officership or directorship in a broadcast station, newspaper or CATV system in the same area? (See Instruction 6 to Section 11.)

☐ Yes ☒ No

(b) Does any member of the immediate family (i.e. husband, wife, father, mother, brother, sister, son or daughter) of an individual holding a nonattributable interest of 5% or more in the applicant have any interest in or connection with any other broadcast station, pending broadcast application, newspaper in the same area (see Section 73.3555(c)), or, in the case of a television station applicant only, a cable television system in the same area (see Section 76.501(a))?

☐ Yes ☒ No

If the answer to (a) and/or (b) above is Yes, attach an Exhibit giving a full disclosure concerning the persons involved, their relationship, the nature and extent of such interest or connection, the file number of such application, and the location of such station or proposed station.

Exhibit No.  
N/A

CITIZENSHIP AND OTHER STATUTORY REQUIREMENTS

15. (a) Is the applicant in violation of the provisions of Section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments? (See Instruction 9 to Section 11.)

☐ Yes ☒ No

(b) Will any funds, credits or other financial assistance for the construction, purchase or operation of the station(s) be provided by aliens, foreign entities, domestic entities controlled by aliens, or their agents?

☐ Yes ☒ No

If the answer to (b) above is Yes, attach an Exhibit giving full disclosure concerning this assistance.

Exhibit No.  
N/A

16. (a) Has an adverse finding been made or an adverse final action been taken by any court or administrative body as to the applicant, any party to this application, or any non-party equity owner in the applicant in a civil or criminal proceeding brought under the provisions of any law related to the following:

Any felony; mass media related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination?

☐ Yes ☒ No

(b) Is there now pending in any court or administrative body any proceeding involving any of the matters referred to in (a) above?

☐ Yes ☒ No

If the answer to (a) and/or (b) above is Yes, attach as an Exhibit a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), a statement of the facts upon which the proceeding is or was based or the nature of the offense alleged or committed, and a description of the current status or disposition of the matter.

Exhibit No.  
N/A

# SECTION III - FINANCIAL QUALIFICATIONS

NOTE: If this application is for a change in an operating facility do not fill out this section.

1. The applicant certifies that sufficient net liquid assets are on hand or that sufficient funds are available from committed sources to construct and operate the requested facilities for three months without revenue.

☒ Yes ☐ No

2. State the total funds you estimate are necessary to construct and operate the requested facility for three months without revenue.

\$ 200,000.00

3. Identify each source of funds, including the name, address, and telephone number of the source (and a contact person if the source is an entity), the relationship (if any) of the source to the applicant, and the amount of funds to be supplied by each source.

Source of Funds (Name and Address)	Telephone Number	Relationship	Amount
Frank B. DuRoss 22 Stonebridge Rd. New Hartford, NY 13413	315-732-2000	Self	\$ 100,000.00
Kenneth F. Roser, Jr. 5819 Graham Rd. Utica, NY 13502	315-797-8236	Self	\$ 100,000.00

#### Section IV-A - PROGRAM SERVICE STATEMENT

Attach as an Exhibit, a brief description, in narrative form, of the planned programming service relating to the issues of public concern facing the proposed service area.

Exhibit No.  
C

#### Section IV-B - INTEGRATION STATEMENT

Attach as an Exhibit the information required in 1. and 2. below.

Exhibit No.  
D

1. List each principal of the applicant who, in the event of a grant of the application on a comparative basis, proposes to participate in the management of the proposed facility and, with respect to each such principal, state whether he or she will work full-time (minimum 40 hours per week) or part-time (minimum 20 hours per week) and briefly describe the proposed position and duties.
2. State with respect to each principal identified in response to Item 1. above, whether the applicant will claim qualitative credit for any of the following enhancement factors:
  - (a) Minority Status
  - (b) Past Local Residence  
If Yes, specify whether in the community of license or service area and the corresponding dates.
  - (c) Female Status
  - (d) Broadcast Experience  
If Yes, list each employer and position and corresponding dates.
  - (e) Daytime Preference
  - (f) Civic activities  
If Yes, describe the activities, specify whether in the community of license or service area, and state the corresponding dates.

SECTION VI - EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

1. Does the applicant propose to employ five or more full-time employees?

☐ Yes ☒ No

If Yes, the applicant must include an EEO program called for in the separate Broadcast Equal Employment Opportunity Program Report (FCC 898-A).

SECTION VII - CERTIFICATIONS

1. Has or will the applicant comply with the public notice requirement of 47 C.F.R. Section 73.3580?

☒ Yes ☐ No

2. Has the applicant reasonable assurance, in good faith, that the site or structure proposed in Section V of this form, as the location of its transmitting antenna, will be available to the applicant for the applicant's intended purpose?

☒ Yes ☐ No

If No, attach as an Exhibit, a full explanation.

Exhibit No.  
N/A

3. If reasonable assurance is not based on applicant's ownership of the proposed site or structure, applicant certifies that it has obtained such reasonable assurance by contacting the owner or person possessing control of the site or structure.

Name of Person Contacted

Norma Eillenburg

Telephone No. (include area code)

315-733-0428

Person contacted: (check one box below)

☒ Owner

☐ Owner's Agent

☐ Other (specify)

4. By checking Yes, the applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits that includes FCC benefits pursuant to Section 5801 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 882, or, in the case of a non-individual applicant (e.g., corporation, partnership or other unincorporated association), no party to the application is subject to a denial of federal benefits that includes FCC benefits pursuant to that section. For the definition of a "party" for these purposes, see 47 C.F.R. Section 1.2002(b).

☒ Yes ☐ No

The APPLICANT hereby waives any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

The APPLICANT acknowledges that all the statements made in this application and attached exhibits are considered material representations, and that all exhibits are a material part hereof and incorporated herein.

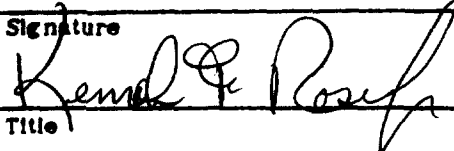
The APPLICANT represents that this application is not filed for the purpose of impeding, obstructing, or delaying determination on any other application with which it may be in conflict.

In accordance with 47 C.F.R. Section 1.85, the APPLICANT has a continuing obligation to advise the Commission, through amendments, of any substantial and significant changes in information furnished.

SECTION VII - CERTIFICATION (Page 2)

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify that the statements in this application are true and correct to the best of my knowledge and belief, and are made in good faith.

Name of Applicant <b>PROFESSIONAL BROADCASTING CORPORATION</b>	Signature 
Date <b>2/3/94</b>	Title <b>Kenneth F. Roser, Jr., President</b>

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT  
AND THE PAPERWORK REDUCTION ACT

The solicitation of personal information requested in this application is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine whether grant of the application is in the public interest. In reaching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. In addition, all information provided in this form will be available for public inspection. If information requested on the form is not provided, processing of the application may be delayed or the application may be returned without action pursuant to the Commission's rules. Your response is required to obtain the requested authority.

Public reporting burden for this collection of information is estimated to vary from 72 hours 40 minutes to 347 hours 25 minutes with an average of 210 hours 32 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, can be sent to the Federal Communications Commission, Information Resources Branch, Room 418, Paperwork Reduction Project, Washington, D.C. 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3080-0027), Washington, D.C. 20503.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552(a)(3), AND THE PAPERWORK REDUCTION ACT OF 1980, P.L. 96-511, DECEMBER 11, 1980, 44 U.S.C. 3507.



CONSULTING COMMUNICATIONS ENGINEERS

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**ENGINEERING EXHIBIT FOR  
AMENDMENT TO APPLICATION FOR FM  
CONSTRUCTION PERMIT  
PROFESSIONAL BROADCASTING CORPORATION  
WHITESBORO, NEW YORK**

**CHANNEL 250**

**1.5 KW(H&V)**

**204 METERS**

**January 26, 1994**

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# **OWL ENGINEERING, INC.**

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